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Report of the Working Group on the Universal Periodic Review*

Bhutan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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1. The Royal Government of Bhutan is fully committed to the Universal Periodic Review which it considers as a very important mechanism to promote and protect human rights on the ground. The UPR also provides an opportunity to share best practices in the field of human rights, which in the case of Bhutan is also enshrined in our Constitution.

2. The Delegation in May 2014 accepted 103 recommendations out of 163 and deferred 60 for further consideration. In compliance with paragraph 120 of the Draft Working Group Report, on the UPR for Bhutan, the Royal Government examined the deferred recommendations and responses have been drafted after thorough consultation with all relevant government agencies. This Addendum addresses all the 60 deferred recommendations.

SL. NO	*Recommendations No.*	*Response*
1.	120.1.	Bhutan intends to expand the range of its international human rights commitment, commensurate with the financial capacity and resources implications, reporting burden, and the need to amend legislation etc. The Royal Government has always maintained that to give meaningful effect to any international obligations, we must first build the legal, political, and social institutions, and develop human resources before assuming these obligations. As a small LLDC, and given the current level of development, Bhutan's priority continues to be socio-economic development. Bhutan therefore is not considering accession of the ICCPR at the moment. The Multi-Sectoral Task Force will continue to undertake study of relevant international instruments to consider feasibility of their ratification.
2.	120.2.	Subject to the review by the Multi-stakeholder Task Force of the ICESCR, Bhutan may consider accession of the ICESCR.
3.	120.3.	The principle of non-discrimination is an important principle under the laws and policies of Bhutan. Legal frameworks are in place that ensures non-discrimination to all persons. Under Art. 7(15) of the Constitution of Bhutan, all persons have the right not be discriminated against on the grounds of race, sex, language, religion, politics or other status. Current legal provisions provide framework for the protection of all persons against discrimination. Therefore, Bhutan is not considering ratification of the convention at the moment.
4.	120.4.	Under Art. 7 of the Constitution, all people have the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment. Other national legislations contain provision relevant to torture, cruel, inhuman or degrading treatment or punishment. Bhutan may consider ratification of this convention after thorough study by the Multi-Sectoral task Force and consultation with all relevant stakeholders.
5.	120.5.	Regarding ICESCR and CAT, please see response to 120.2 and 120.4. Regarding ICCPR, please see response to 120.1
6.	120.6.	Bhutan is not considering accession of the Convention and will only consider accession depending on the relevance and need.

7.	120.7.	To mainstream the rights of persons with disabilities, disabilities issues have been incorporated in our national plans and currently an assessment for a National Disability Policy is underway. Bhutan may consider ratification of this convention after thorough study by the Multi-Sectoral task Force and consultation with all relevant stakeholders.
8.	120.8.	Bhutan is not considering accession of the Convention and will only consider it depending on the relevance and need of the instrument.
9.	120.9.	Bhutan is not considering ratification of the optional protocol at the moment.
10.	120.10.	Bhutan will consider possibility of acceding to international human rights instruments taking into account the need and priorities of the Government.
11.	120.11.	The Labour and Employment Act 2008 is aligned to many international standards related to child labour including ILO Convention 182. Bhutan will only consider accession and ratification depending on the relevance and need in Bhutan's context.
12.	120.12.	See response to recommendation 120.8.
13.	120.13.	See response to recommendation 120.8.
14.	120.14.	Bhutan has instituted administrative measures to provide assistance to persons claiming refugee status on humanitarian grounds.
15.	120.15.	Bhutan is not considering ratification of the third optional protocol at the moment.
16.	120.16.	Bhutan accepts this recommendation keeping in mind the circumstances and issues explained before concerning accessions to international human rights treaties in our context.
17.	120.17.–120.29.	Bhutan remains committed to constructive engagement with the human rights mechanisms of the UN. Bhutan will continue to receive Special Rapporteurs and other Special Procedure mandate holders, taking into account its capacity, national priorities, as well as the need for adequate preparations for such visits. Bhutan recently hosted the visit of the Special Rapporteur on Right to Education, from 24 May to 4 June 2014.

18.	120.30.	Current legal framework in Bhutan adequately addresses the issue of child marriages. Child marriage is prohibited under several provisions of the Marriage Act and the Penal Code of Bhutan. While the Marriage Act explicitly prohibits child marriage, the Penal Code criminalizes any act of consensual sexual act with a child below twelve years of age as well as a child between the ages of twelve to eighteen years either with or without the knowledge of the other person being a child. Royal Government has also been proactive in addressing child marriage and teenage pregnancy through Adolescent Health Program and Education on Adolescent Sexual & Reproductive Health. Bhutan is part of the Regional Action Plan to End Child Marriage developed by South Asia Initiative to End Violence Against Children (SAIEVAC) in consultation with the CSOs of 8 countries and the SAARC Law Chapters. NCWC as the nodal agency, will spearhead its coordination and implementation. Bhutan accepted two recommendations, from the second UPR cycle, to raise awareness on child marriages to prevent its occurrence. These proactive steps fully demonstrate our commitment to preventing and ending child marriage. As such, Bhutan can partially accept this recommendation with the understanding that "actions" mean raising awareness on the issue.
19.	120.31.	Bhutan is already working on improving the existing civil registration system through the development of Standard Operating Procedures for birth and death registration. We are also participating in the Regional Action Framework for Civil Registration and Vital Statistics in Asia and Pacific. Bhutan does not plan to introduce any amendment to its legislation on Civil Registration as the current initiatives adequately address all concerns.
20.	120.32.	The principle of non-discrimination is an important principle under the laws and policies of Bhutan. Legal frameworks are in place that ensures non-discrimination to all persons. It is our state policy to create a civil society free of oppression, discrimination and violence, based on the rule of law, protection of human rights and dignity, and to ensure the fundamental rights and freedoms of the people. Under Art. 7(15) of the Constitution of Bhutan, all persons have the constitutional right not be discriminated against on the grounds of race, sex, language, religion, politics or other status. With regard to the Citizenship Act, every sovereign nation is entitled to its own Citizenship law which defines the acquisition, transmission and termination of its people's citizenship. Like many countries, Bhutan's Citizenship Act has undergone series of amendments since its enactment in 1958, with the goal of bringing about positive procedural changes. Bhutan believes that the Citizenship Act in its current form is in the best interest of the country and its people.

21.	120.33.	It may be noted that the disparity in transmitting nationality based on parental citizenship exist in many developing as well as developed countries. Since the adoption of the Constitution in 2008, the procedure for transmission of Bhutanese nationality is same irrespective of the gender of a parent.
22.	120.34.	Bhutan Accepts these recommendations.
	120.35.	Vulnerable groups which include senior citizens, children, persons with disabilities, etc. have already been identified as a National Key Result Area in the 11th Five Year Plan. A high level Committee has been formed to identify an agency to take charge of mandates concerning vulnerable groups. Disabled friendly facilities and services have also been integrated into the 11th Five Year Plan. A high level committee has been formed to assess the need for a National Disability Policy. A National Plan of Action for Child Protection is under implementation.
23.	120.36.	The school curriculum has been reviewed to make it more gender sensitive, while the Non Formal Education programme is availed more by women and contains teaching learning materials which are gender friendly and sensitive towards rural women and their lives. Advocacy on gender issues and awareness is also being carried out in schools regularly through the Educating for GNH programme and targeted workshops on "Gender Responsiveness in the Classroom". Bhutan does not see the requirement for further incorporation of content with a human rights approach into education.
24.	120.37.	
25.	120.38.	The Labour and Employment Act 2008 is aligned to many international standards related to child labour including ILO Convention 182. Regulation on Acceptable Forms of Child Labour outlines the lists of work prohibited for children between the ages of 13-17 years. The Regulation was reviewed in 2012 to further align it to the ILO Conventions. The child labor handbook and training against child labour and on child rights are being conducted on a regular basis. Although the Child Care and Protection Act 2011 does not have provisions specific to child labour, the legislation clearly identifies children in difficult circumstances and provisions have been made under the Child Care and Protection Rules and Regulations for alternative care for children in difficult circumstances. Children involved in child labour will clearly fall under this category of vulnerable children and therefore they can be provided care and protection according to the above provisions. While Bhutan remains fully committed to fighting Child Labour and the principles on which this recommendation is based on, it does not plan to introduce any new legislation on the same as the current law and practices adequately addresses the issue. Bhutan can partially accept this recommendation to ensure effective implementation of current laws and practices.

26.	120.39.	Bhutan has all the legal provisions in place to ensure all citizens have access to the legal aid system. Bhutan does not tolerate any forms of discrimination among its citizens especially from enjoying equal access to Justice. The Constitution provides for the equal treatment of all its citizens and also protects them from all forms of discriminations. These rights are enshrined under Article 7. The Constitution also mandates the state to provide legal aid. Article 7(23) allows any person to initiate appropriate proceedings in the Supreme Court or High Court for the enforcement of the various rights conferred in the Constitution.
27.	120.40.–120.42	Section 213 and 214 of the Penal Code concerning what is termed therein as "unnatural acts" have never been evoked since its enactment for same sex acts between two consenting adults. These provisions can be reviewed when there is a felt need for it by the general population.
28.	120.43.	Bhutan accepts the recommendation.
29.	120.44.–120.45.	All Bhutanese citizens have the constitutional right of freedom of religion. However, no person can be compelled to belong to another faith by means of coercion and inducement. To protect majority of the population who are poor, uneducated and vulnerable to inducement and other coercion, Section 463(A) was inserted during the amendment of the Penal Code in 2011 which states that, a defendant shall be guilty of the offense of compelling others to belong to another faith of the defendant uses coercion or other forms of inducement to cause the conversion of a person from one faith to another. As long as a person is not compelled to belong to another faith by means of coercion or inducement, the right to freedom of practice any religion of choice is guaranteed in Bhutan. There has been no arrest or prosecution and conviction of any Bhutanese for embracing any religion of their free will.
30.	120.46.	Following the enactment of the Civil Society Act and the establishment of CSO Authority in 2009, CSOs have been recognized as an important partner in creating the necessary balance in the development of Bhutanese society, and in particular to promote social welfare and improve conditions and quality of life for all. Currently there are 38 registered CSOs, and more are emerging, particularly at the grass roots level. Most CSOs in Bhutan work to protect and promote human rights through social welfare of the people who are socially and economically marginalized. CSOs have also advocated for policies and intervention in the areas of promoting human rights in the country. The robust CSO growth in other areas also demonstrates Royal Government's continued effort in creating a sustainable environment for its development.

31.	120.47.	The democratization process in Bhutan is one of grass root engagement, both in the decision making process as well as in the implementation of its socio-economic development plans and programmes. The hallmark of Bhutanese democracy is that it is transparent, inclusive and affirmative. All elections have been open to the international community and have been monitored by International Observers and Media alike. As such, the entire process of democratization is an effort to make it more inclusive and development oriented than ever before.
32.	120.48.	The electoral laws of Bhutan fundamentally ensure that all registered voters of the country are able to participate in the electoral process. However as per best international practices, there are certain criteria which must be applied with regard to participation in the electoral process; both to vote and to stand for elections. These criteria ensure that participation in electoral process is guaranteed to a rightful and eligible citizen and voter. At the same time, certain citizens are above politics and best suited to remain so in their revered position for the common good of the country and be removed from any possibility of engaging in divisive politics.
33.	120.49.	Bhutan recognizes the need for a comprehensive Social Security Policy and is committed to taking incremental steps towards realizing this goal. As an initial first step, the Social Protection Policy for workers in the formal sector has been drafted by the Labour Ministry. Stakeholders have recognized the need for a comprehensive baseline assessment before we draft such a policy. In view of the lack of institutional and financial capacity, Bhutan is currently not in the position to accept this recommendation.
34.	120.50.	Bhutan is committed to ensuring that all children have access to free primary education. The Constitution of Bhutan guarantees the right of every child to 11 years of free Basic education. As of 2013, the Net primary Enrolment Ratio was 96% while the adjusted Net Primary Enrolment Ratio was 98.5% indicating that almost all children are enrolled in primary school. Further, the provision of free stationary and food and boarding facilities in rural and remote pockets of the country ensure that there is equitable access to education for all. Given that universal primary education has almost been achieved, and the country is well on track to achieving Education For All by 2015, the government does not feel the need to make primary education compulsory.
35.	120.51.	See response to recommendation no. 44 & 45.

36.	120.52.–120.59.	The issue of people in the camps in Eastern Nepal is a long standing humanitarian problem on which the governments of Bhutan and Nepal have been engaged in bilateral discussions for many years. The problem is not a typical refugee situation but one arising from large scale illegal immigration of economic migrants. Bhutan currently has over 1,30,000 non-Bhutanese workers which is more than in the 1990s. Some are getting married to local people in order to remain in the country while others are demanding citizenship by virtue of having lived in Bhutan. Following the first Joint Field Verification of the people in the camps in Nepal in the early 1990's, Bhutan and Nepal agreed that there were all kinds of people in the camps, including non-Bhutanese people. Third country resettlement by the Core Group of countries, led by the United States, is making significant contribution to the resolution of this humanitarian problem and we are deeply appreciative of their generous offer. Bhutan is in regular contact with the Government of Nepal and UNHCR and most recently in March2014, the Prime Ministers of Bhutan and Nepal met in Nay Pyi Taw in Myanmar on the sidelines of the BIMSTEC Summit and in May 2014 in Delhi. In May 2014 the Prime Ministers of Bhutan and Nepal met in New Delhi on the sidelines of Prime Minister Narendra Modi's Swearing-in-Ceremony.
37.	120.60.	After consulting with Thailand, we have learnt that the recommendation in its current form is a result of miscommunication does not reflect the spirit and intent with which it was made. Bhutan cannot accept this recommendation.